Local Union No. 3, International Brotherhood of Electrical Workers, AFL-CIO (Mulvhill Electric Contracting Corp.) *and* Richard Bartholomew. Case 2-CB-8787

February 28, 1983

DECISION AND ORDER

BY MEMBERS JENKINS, ZIMMERMAN, AND HUNTER

On September 17, 1982, Administrative Law Judge Thomas T. Trunkes issued the attached Decision in this proceeding. Thereafter, Respondent filed exceptions and a supporting brief and the General Counsel filed a statement in support of the Administrative Law Judge's Decision.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and brief and has decided to affirm the rulings, findings,[1] and conclusions[2] of the Administrative Law Judge and to adopt his recommended Order.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge and hereby orders that the Respondent, Local Union No. 3, International Brotherhood of Electrical Workers, AFL-CIO, New York, New York, its officers, agents, and representatives, shall take the action set forth in said recommended Order.

[1] Respondent has excepted to certain credibility findings made by the Administrative Law Judge. It is the Board's established policy not to overrule an administrative law judge's resolutions with respect to credibility unless the clear preponderance of all of the relevant evidence convinces us that the resolutions are incorrect. *Standard Dry Wall Products, Inc.*, 91 NLRB 544 (1950), enfd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing his findings.

[2] In adopting the Administrative Law Judge's Decision, we find it unnecessary to pass on his statements in fn. 16 regarding unalleged derivative violations of the Act.

DECISION

STATEMENT OF THE CASE

THOMAS T. TRUNKES, Administrative Law Judge: This case was heard in New York, New York, on June 11, 1982, based on a charge filed by Richard Bartholomew, herein Richard or the Charging Party, on April 2, 1981,[1] and a complaint issued therein on May 29, 1981, alleging that Local No. 3, International Brotherhood of Electrical Workers, AFL-CIO, herein Respondent or Local 3, through acts of various agents of Respondent, caused, and attempted to cause, an employer to discriminate against its employees in violation of Section 8(a)(3) and (1) of the Act, thereby engaging in unfair labor practices within the meaning of Section 8(b)(2) of the Act. Local 3 filed an answer denying the commission of any unfair labor practices. The Charging Party was not represented at the hearing. However, the General Counsel and Respondent participated in this proceeding and had full opportunity to adduce evidence, to examine and cross-examine witnesses, to argue orally, and to file briefs. Oral arguments were presented at the close of the case by counsel for the General Counsel, herein the General Counsel, and counsel for Respondent. In addition, both the General Counsel and Respondent submitted timely briefs.

The issues presented at the hearing were as follows:

1. Whether the National Labor Relations Board, herein the Board, should assert jurisdiction over the employer involved in the matter, Mulvhill Electric Contracting Corp., herein Mulvhill.

2. Whether Willie McSpeddin and/or Jack Elbert are agents of Respondent.

3. Whether Respondent attempted to cause, and thereafter caused, Mulvhill to fail and refuse to employ Richard on April 1, 2, and 3.

4. Whether Respondent's act in causing Mulvhill to refuse employment to Richard occurred for reasons other than his failure to tender periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership in Respondent.

Upon the entire record in this case, including my evaluation of the reliability of the witnesses based on the evidence received and my observation of their demeanor, I make the following:

FINDINGS OF FACT

I. JURISDICTION

Mulvhill, a corporation,[2] with its principal office and place of business located at 503 Cary Avenue, West Brighton, Staten Island, New York, and with jobsites at various locations in New York State, is engaged in the business of installing and servicing electrical wiring for commercial customers. Mulvhill is a member of the New York Electrical Contractors Association, Inc., an organization composed of employers engaged in the business of installing and servicing electrical wiring for commercial customers, and which exists for the purpose, *inter alia*, of representing its employer-members in negotiating and administering collective-bargaining agreements with labor organizations, including Respondent. Annually, the employer-members of the Association, collectively, directly purchase and receive at their various jobsites and locations in New York State products, goods, and materials valued in excess of $50,000, which products, goods, and materials originate from firms located outside of New

[1] All dates hereinafter will refer to 1981, unless otherwise specified.

[2] There is no evidence contained in the record to indicate in which State Mulvhill is incorporated.

York State. I find that by virtue of its membership in the Association, Mulvhill is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.[3]

II. THE LABOR ORGANIZATION

Respondent admits, and I find, that it is a labor organization within the meaning of Section 2(5) of the Act.

III. THE ALLEGED UNFAIR LABOR PRACTICES

A. *Background*

Richard, an electrician, has been a member of Local 3 since September 1962. He has worked at various jobsites in the New York metropolitan area since that date. In March 1981 he was employed as an electrician for Mulvhill, in Manhattan, City of New York. His foreman at that jobsite was Howard McSpeddin, herein McSpeddin.

As a member of Local 3, Richard was obligated to pay his dues twice a year, in March and September, by the last day of each month. He testified that generally his wife paid the dues.

Article X, section 7, of the bylaws of Local 3 provide that, "Dues are payable in advance. Payment of dues to the Financial Secretary's office shall be made by mail with check or money order."

The shop steward at the jobsite is Willie McSpeddin, a/k/a Uncle Willie, herein called Willie or the shop steward. Both the foreman and the shop steward positions are temporary positions for each particular jobsite. Richard conceded that he has served as a foreman on other jobsites for other employers. He further testified that he had worked with Willie only on this one particular job. In Willie's absence, another employee named Jack Elbert acted as job steward. Neither Willie nor Elbert worked the day shift, approximately 7:30 a.m. to 4 p.m. Both were employed at the jobsite at the late afternoon or night shifts which commenced after Richard went home.

Dorothy Bartholomew, herein Dorothy, wife of Richard, testified that she had paid union dues for her husband for the past 15 years, except for the period 1975 to 1977, at which time the Bartholomews resided in Pennsylvania, and, therefore, the dues were paid to Local 3 by mail. She generally paid the dues by visiting Local 3's office and presenting a check at the dues window. The checks contained her name, as well as the name of her husband, Richard, with his middle initial "O" and a social security number, the last item being a requirement of Local 3. She further stated that the past practice had been for a new union card to be received by her immediately upon the payment of the dues.

B. *The Events of March 31*

Dorothy testified that during the day while her husband was at work at the jobsite, she journeyed to Local 3's headquarters in Flushing, Queens, New York, approximately 5 miles from her home, to pay the dues for her husband.[4] She asserted that, upon entering the building, she went to the dues window, where she handed a woman Richard's soon-to-expire union card and a check for the dues. The woman placed the check and the card in a box and informed Dorothy that a new union card would be mailed to Richard.

Richard testified that on March 31 he reported to the jobsite at approximately 8 a.m., and worked until approximately 4 or 4:30 p.m. During the course of that day, Foreman McSpeddin reminded him that the payment of union dues was due no later than that date, and warned him that should he not have his new union card in his possession, he would be unable to work the following day.

That evening, approximately 5:30 p.m., Richard returned home and was advised by his wife that no new union card had been issued to her, but would be sent by mail. He immediately telephoned the shop steward at the jobsite and informed him of his dilemma. The shop steward responded, "Well, you know, no reflection on you, but Tommy says that if you don't have no card, you can't start work the next day. Tommy Van Arsdale, that's the business manager." Richard answered, "Okay," and ended the conversation.

C. *Events of April 1*

The following day, April 1, Richard went to the union offices at or about 9 a.m. and saw Van Arsdale. He explained what had happened, requesting help by either a letter or a telephone call to Mulvhill so that he could go to work that date. Van Arsdale replied that he could not do this, stating that Richard was late in paying his dues. When Richard reported that he was not late, but paid his dues on March 31, Van Arsdale replied, "Well, that's your problem."

D. *Events Subsequent to April 1*

Richard testified that he did not report to work on April 1 or 2, but did go to the jobsite on Friday, April 3, at approximately 7:30 a.m. At that time he spoke to Jack Elbert. Elbert asked him if he had a union card. When Richard responded negatively, Elbert stated that Richard "was unable to work as he knows the rules laid down by Van Arsdale." Richard then went home. About noon that same day, his union card arrived by mail. On Monday, April 6, Richard returned to the jobsite with his union card and was permitted to work. Richard experienced no further problems with Respondent thereafter.

E. *Discussion and Analysis*

1. Credibility

Although counsel for Respondent presented no witnesses, other than Dorothy, he argued that there were sufficient gaps and contradictions in the testimony of both Richard and Dorothy to lend doubt to the reliability of their testimony, and, therefore, their testimony

[3] *Marble Polishers, Machine Operators and Helpers, Local No. 121, AFL-CIO, and its agent John Foglia (Miami Marble & Tile Company)*, 132 NLRB 844, 845 at fn. 1 (1961).

[4] Richard testified that on Friday, March 27, he had requested that his wife pay his dues in person so he could get his union card immediately.

should not be credited. Although as counsel for Respondent argues, there are some inconsistencies in the testimony of Richard and Dorothy, I do not find these inconsistencies to be of such magnitude as to discredit either of the Bartholomews' testimony. I found both Richard and Dorothy to be straightforward, sincere, honest, and truthful, and the story related by both the Bartholomews was consistent and credible. Accordingly, as there were no contradiction of facts offered by Respondent, I find the facts as obtained under oath from Dorothy and Richard Bartholomew to be reasonable, truthful, and creditable.

2. Agency of Willie McSpeddin and Jack Elbert

It is well known that in the construction industry a worker's length of employment depends on the magnitude of the project. It is common practice for construction unions, such as Respondent, to appoint foremen and shop stewards for a particular job at a particular jobsite for the duration of that job. Generally, the collective-bargaining agreement contains provisions to indicate the procedure for selection of foreman and shop steward.[5]

No evidence was forthcoming to dispute Richard's testimony that Willie McSpeddin was the shop steward, and in his absence Jack Elbert was acting shop steward for Respondent. Accordingly, I find that both individuals were agents of Respondent, acting in capacity of shop steward and acting shop steward in March and April 1981, and whatever acts contrary to Board law either may have committed will be imputed to Respondent.[6]

3. The alleged violations

For reasons stated below, I find that the General Counsel has sustained his burden of proof that Respondent violated Section 8(b)(2) of the Act, as alleged in the complaint.[7]

The General Counsel correctly points out in his brief that no evidence was submitted to show that "any union security clause, much less a valid one, was included in the collective-bargaining agreement between Respondent and the Association." Further, the agreement itself was not introduced into evidence.[8]

As the agreement is not in evidence, I cannot make any finding that a union-security clause is included in the agreement, or, if one does exist, that it is valid. Thus, Respondent has no lawful basis upon which to deny any of its members their right to work for Mulvhill.

As the Board stated:

> It has long been established "that the proviso to Section 8(a)(3) sets up a probable defense to conduct outlawed by 8(b)(2) of the Act, only in the limited situation were a union can show the existence of a permissible union-security contract in effect *at the moment* the attempted or actual discharge action is taken."[9]

Respondent failed to meet its burden in the instant case.

However, assuming, *arguendo*, that a valid union-security clause does, in fact, exist in the collective-bargaining agreement,[10] I would still find that Respondent has violated the Act, as alleged.

Section 8(b)(1)(A) of the Act states that it is an unfair labor practice for a labor organization or its agents to restrain or coerce employees in the exercise of rights guaranteed in Section 7 of the Act, "*Provided*, That this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein."

Respondent contends that its bylaws provide that all dues shall be paid by mail. Thus, the failure of Richard or his wife to abide by the Union's bylaws resulted in the nonissuance of an up-to-date union card to Richard, which, of course, eventually led to his inability to work at the jobsite.

Although unions are permitted to make and enforce their own internal rules relating to its members, and the mere existence of said union rules does not violate the Act, this would apply as long as a union does not thereby affect the employment of its members. However, in this situation, Respondent through its agents, Willie and Elbert, made it clear that Richard would not be permitted to work unless he had a union card indicating that he had paid his dues currently, and his failure to possess such a card from April 1-3 denied him employment at the jobsite.

The Supreme Court in *N.L.R.B.* v. *General Motors Corp.*, 373 U.S. 734, 742 (1963), established rules which determine the propriety of discharges pursuant to union-security agreements as follows:

> It is permissible to condition enployment upon membership, but membership, insofar as it has significance to employment rights, may in turn be conditioned only upon payment of . . . dues. "Membership" as a condition of employment is whittled down to its financial core.

Although the Union may contend that it has complied with the test as set forth in *General Motors, supra*, the facts militate against this contention.

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[5] The collective-bargaining agreement between Respondent and the Association was not introduced nor received into evidence. However, art. IX, sec. 1, of the bylaws of Respondent reveals that stewards are appointed by the business manager (Van Arsdale), work under his direction, are subject to his authority, and can be removed by him at any time.

[6] *Local Union No. 3, International Brotherhood of Electrical Workers, AFL-CIO (New York Telephone Company)*, 193 NLRB 758, 762 (1971), and *Local Union No. 3, International Brotherhood of Electrical Workers (Western Electric Company, Incorporated)*, 141 NLRB 888 (1963).

[7] I agree with the General Counsel, who argues in his brief, that there is sufficient evidence to establish further violations of Sec. 8(b)(1)(A) of the Act. However, as neither the charge nor the complaint make mention of any 8(b)(1)(A) violations, I shall not make any finding or conclusions with respect to them. Cf. *Glasgow Industries, Inc., M.B. Manufacturing Co., P. Sorensen Mfg. Co., Inc.*, 210 NLRB 121 (1974).

[8] At the close of the hearing, after all parties rested, the General Counsel offered to stipulate to receive the agreement. Respondent refused this offer, and, therefore, the agreement was not received.

[9] *International Association of Machinists and Aerospace Workers, District No. 15, AFL-CIO (Burroughs Corporation)*, 231 NLRB 602, 603 (1977) (with cases cited).

[10] Having been exposed to a myriad of agreements in which Respondent was a participant, I have little doubt that the agreement it has with the Association does, in fact, contain a valid union-security clause.

The Union, by accepting the check from Dorothy on March 31, did not comply with its own rules of receiving dues by mail. Thus Respondent has no cause to complain that Richard did not comply with its rules.

Assuming, *arguendo*, that the Union had refused the payment of dues on March 31 tendered by Dorothy in person, and informed her that the dues must be paid by mail in order for Richard to retain his membership in the Union, I would still find this act by the Union to constitute a violation.

As the Board stated in a recent decision:[11]

> The Union misapplies *N.L.R.B.* v. *General Motors Corporation, supra*, wherein the Supreme Court held that union "membership, insofar as it has significance to employment rights, may in turn be conditioned only upon payment of fees and dues [and that therefore] 'membership' as a condition of employment is whittled down to its financial core." Contrary to the Union, we find that its refusal to accept cash, which is legal tender, and its insistence on the payment of dues by money order or check went beyond the "financial core" by imposing on [member] a burden which exceeded the statutory requirement of payment of periodic dues. Although the Union was free under the first proviso to Section 8(b)(1)(A) to prescribe its own rules with respect to the acquisition or retention of membership, its ability to enforce such rules, however reasonable, is restricted by barring enforcement of a union's internal regulation to affect a member's employment status. (Footnote omitted.) Thus, if a union imposes any qualification or condition for membership other than the payment of periodic dues with which an employee is unwilling to comply, such an employee may not be entitled to membership, but he is entitled to keep his job.

Assuming further that the Union is correct in its position that the failure to pay dues in the manner prescribed by the Union is sufficient reason for the Union to fail to provide a union card to Richard, it is well established that a union has a fiduciary relationship with its members when seeking compliance under a union-security clause. Thus, the court of appeals in *Philadelphia Sheraton*,[12] stated as follows:

> The comprehensive authority vested in the union, as the exclusive agent of the employees, leads inevitably to employee dependence on the labor organization. There necessarily arises out of this dependence a fiduciary duty that the union deal fairly with employees. . . . At the minimum, this duty requires that the union inform the employee of his obligations in order that the employee may take whatever action is necessary to protect his job tenure. . . . The union may not evade this duty, as the Local did here, and then demand the dismissal of the employee when he becomes delinquent in the payment of his dues.

When Richard approached Van Arsdale on April 1, explaining that his dues had been paid on time, but because of the failure of the Union to provide him with any evidence of dues payment he was being denied employment, Van Arsdale's insensitivity to the problem and his failure to represent Richard in the "fiduciary relationship," did not meet the requirements of Board and court law. Van Arsdale could have investigated this matter to ascertain the payment of the check by Dorothy and either hand deliver a union card to Richard, hand him a receipt indicating that dues had been paid, telephone the employer and/or the union shop steward at the jobsite to inform them that Richard should not be deprived of employment, or take some other action in order to permit Richard to be employed by Mulvhill at the jobsite.

The Board further made it clear that the union-security rules were instituted in order to preclude "free riders"; i.e., employees who are not union members, from enjoying the fruits of a collective-bargaining agreement which a union has with an employer. It was congressional policy, "not to protect free riders against excessive union demands, but rather to insure that employees who were willing to pay their financial obligations were not discharged for improper reasons."[13] Richard, a member in good standing of Local 3 for 20 years, in no sense could be classified as a "free rider." In arriving at this conclusion, I note that no evidence was presented to indicate that Richard had been delinquent in dues payments at any prior occasion. The evidence is clear, from Dorothy's testimony, that she faithfully and reliably paid the dues on time for many years, and no problem had ever arisen prior to the instant situation. It is for employees such as Richard that Section 8(b)(2) was enacted, and it was for these employees that Board and court decisions have been rendered to protect them from arbitrary and invidious decisions made by unions that represent them in the workplace.[14]

Respondent has argued that no evidence was presented that the Union in any manner communicated with any representative of the Employer to cause, or attempt to cause, the discharge of Richard. Although there does not appear to be any communication between the Union and Employer in this case, it is necessary to look at other factors to establish that such communication does exist.

From the creditable testimony of Richard, as there is no evidence to the contrary, I find that Howard McSpeddin independently assigned work to the electricians. Thus, one of the criteria as stated in Section 2(11) of the Act applies to McSpeddin, and, accordingly, I conclude that he is a supervisor of Mulvhill within the meaning of Section 2(11) of the Act. The record reveals that McSpeddin informed Richard on March 31 that unless he had a union card indicating that his dues were paid, he would be unable to work on April 1. McSped-

[11] *AMF Wheel Goods Division, a Division of AMF Incorporated*, 247 NLRB 231, 233 (1980).

[12] *N.L.R.B.* v. *Hotel, Motel and Club Employees' Union, Local 568, AFL-CIO* [*Philadelphia Sheraton Corp.*], 320 F.2d 254, 258 (3d Cir. 1963), enfg. 136 NLRB 888 (1962).

[13] *Great Lakes District, Seafarers' International Union of North America, AFL-CIO (Tomlinson Fleet Corporation)*, 149 NLRB 1114, 1121 (1964).

[14] Cf. *Local 3, IBEW (R. H. Macy & Co., Inc.)*, JD-(NY)-42-82, presently before the Board.

din, Mulvhill's foreman, was acting as an agent for Mulvhill in issuing this warning to Richard.

In concluding that it was Respondent who coerced Mulvhill to violate Section 8(a)(3) of the Act, I have evaluated the statements of the shop steward, Willie; the acting shop steward, Elbert; the business manager of Respondent, Van Arsdale; and the foreman, McSpeddin; as testified to by Richard, together with the rules laid out in Respondent's bylaws. The General Counsel points out in his brief, all the above "taken together, establish that there was a working agreement between Respondent and Mulvhill that Respondent's members would not be permitted to work on April 1 without their new membership cards evidencing that they had paid their dues." I concur with the General Counsel's analysis and argument, and, thus, I find no merit in Respondent's contention that Respondent did not commuuicate with Mulvhill to cause it to discriminate against Richard.[15]

In view of the foregoing, I have concluded that Respondent caused Mulvhill to discriminate against Richard in violation of Section 8(a)(3) of the Act, and, by doing so, violated Section 8(b)(2) of the Act.[16]

CONCLUSIONS OF LAW

1. Mulvhill Electric Contracting Corp. is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. Local Union No. 3, International Brotherhood of Electrical Workers, AFL-CIO, is a labor organization within the meaning of Section 2(5) of the Act.

3. By causing Mulvhill to discriminate against Richard Bartholomew in violation of Section 8(a)(3) of the Act, the Union violated Section 8(b)(2) of the Act.

4. The aforesaid unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

THE REMEDY

Having found that Respondent engaged in unfair labor practices within the meaning of Section 8(b)(2) of the Act, I shall recommend that Respondent be ordered to cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act. It having been found that Respondent caused Mulvhill to discriminate against Richard Bartholomew because he was not a member in good standing with Respondent, for reasons other than his failure to tender periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership, I shall recommend that Respondent be ordered to make Richard Bartholomew whole for any loss of pay or benefits incurred from April 1 to 3, 1981,[17] with backpay to be computed in the manner prescribed in *F. W. Woolworth Company*, 90 NLRB 289 (1950), and *Florida Steel Corporation*, 231 NLRB 651 (1977). See also *Isis Plumbing & Heating Co.*, 138 NLRB 716 (1962).

Upon the foregoing findings of fact, conclusions of law, and the entire record in this case, and pursuant to Section 10(c) of the Act, I issue the following recommended:

ORDER[18]

The Respondent Local Union, 3, International Brotherhood of Electrical Workers, AFL-CIO, New York, New York, its officers, agents, and representatives, shall:

1. Cease and desist from:

(a) Causing or attempting to cause Mulvhill Electric Contracting Corp., or any other employer, to discriminate against Richard Bartholomew, or any other employee, in violation of Section 8(a)(3) of the Act, because of his lack of membership or good standing in Local 3, except to the extent that Local 3 may validly enforce a legal union-security clause of a collective-bargaining agreement within the terms and provisions of the National Labor Relations Act, as amended.

(b) In any like or related manner restraining or coercing employees in the exercise of rights guaranteed by Section 7 of the Act.

2. Take the following affirmative action which will effectuate the policies of the Act:

(a) Make whole Richard Bartholomew for any loss of pay or benefits which he may have suffered by reason of the discrimination against him in the manner set forth in the section of this Decision entitled "The Remedy."

(b) Post in conspicuous places in the Union's business office, meeting hall, and other places where notices to its members are customarily posted copies of the attached notice marked, "Appendix."[19] Copies of said notice, on forms provided by the Regional Director for Region 2, after being duly signed by Respondent's representative shall be posted by it immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to members are customarily posted. Reasonable steps shall be taken by the Union to ensure that said notices are not altered, defaced, or covered by any other material.

(c) Deliver to the Regional Director for Region 2 signed copies of said notice, for posting by Mulvhill Electric Contracting Corp., if willing, at places where notices to its employees or Local 3 members are customarily posted.

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[15] *United Derrickmen & Riggers Association, Local 197 of New York, All Long Island and Vicinity (Domestic Stone Erectors, Inc.)*, 205 NLRB 58 (1973), and cases cited therein; see also *Reinforcing Iron Workers Local Union No. 426 International Association of Bridge, Structural and Ornamental Iron Workers, AFL-CIO (Tryco Steel Corporation)*, 192 NLRB 97 (1971), enfd. 81 LRRM 2479, 69 LC ¶ 13,036 (D.C. Cir. 1972).

[16] Cf. *Tile, Marble, Terrazzo Finishers and Shopmen International Union Local No. 31, AFL-CIO (Standard Art, Marble and Tile Co.)*, 258 NLRB 1143, 1146 (1981). I would also find a derivative violation of Sec. 8(b)(1)(A) had it been alleged in the complaint.

[17] I reject Respondent's contention that upon receipt of his union card on April 3, Richard should have reported to work. By the time he would have arrived at work that day, the day shift to which he was assigned would have been more than half over.

[18] In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Sec. 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

[19] In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

(d) Notify the Regional Director for Region 2, in writing, within 20 days from the date of this Order, what steps Local 3 has taken to comply herewith.

APPENDIX

NOTICE TO MEMBERS
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

After a hearing at which all sides had an opportunity to present evidence and state their positions, the National Labor Relations Board found that we have violated the National Labor Relations Act, as amended, and has ordered us to post this notice.

WE WILL NOT cause, or attempt to cause, Mulvhill Electric Contracting Corp., or any other employer, to discriminate against Richard Bartholomew, or any other employee, in violation of Section 8(a)(3) of the Act, because of his lack of membership or good standing in Local 3, except to the extent that Local 3 may validly enforce a legal union-security clause of a collective-bargaining agreement within the terms and provisions of the National Labor Relations Act, as amended.

WE WILL NOT in any like or related manner restrain or coerce employees in the exercise of rights guaranteed in Section 7 of th National Labor Relations Act.

WE WILL make Richard Bartholomew whole for any loss of pay or benefits which he may have suffered by reason of the discrimination against him, plus interest.

LOCAL UNION NO. 3, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO